IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 177 (S/B) of 2004

Mahesh Prasad Kashyap …. Petitioner

Versus

State of Uttaranchal and another … Respondents

Hon'ble M.M. Ghildiyal, J.
Hon'ble Rajesh Tandon, J.

Heard Sri Kailash Tewari learned counsel for the petitioner and learned Standing Counsel.

By the present petition, the petitioner has challenged the order of transfer dated 08.06.2004 passed by Director, Rajaji National Park, Dehradun (respondent no. 2).

Brief fact of the case are that the petitioner was given the charge of Forest Range Officer, Gohari Range, District Pauri Garhwal on 27.12.2002 and he is still continued on the said post. On 08.06.2004 transfer order was passed by Director, Rajaji National Park, Dehradun, by which the petitioner was transferred to the office of Deputy Director, Rajaji National Park, Haridwar from the present place of Gohari Range, District Pauri Garhwal.

The petitioner has challenged the aforesaid order on the ground that the same is mala fide. He has also referred the policy of the transfer framed on 22.05.2004. Paragraph 10 of the policy shows that the transfer shall be made in the month of May only.

We find no illegality in the transfer order passed in the public interest and administrative exigency and therefore, in view of the judgment of **AIR 1991 Supreme Court 532 Shilpi Bose Vs. State of Bihar** the policy cannot be challenged by way of writ petition in Article 226 of the Constitution of India which is quoted as under:-

> *"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in*

violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected partly should approach the higher authorities in the Department."

In view of the aforesaid judgment we direct the petitioner to make a fresh representation before the respondent no. 2 within one week from the receipt of the certified copy of the order and the same shall be decided by the respondent no. 2 within two weeks from the receipt of the representation of the petitioner. In the meantime, transfer order shall remain in abeyance for a period of three weeks from the date of issue of certified copy of the order.

Subject to the aforesaid observations, the writ petition is disposed of.

(Rajesh Tandon, J.) **(M.M. Ghildiyal, J.)**

28.06.2004
ASWAL